

Staffing firm sues rivals for treating workers as independent contractors

By Daniel Wiessner

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The U.S. flag, a judge gavel and a vintage scale are seen in this illustration taken August 6, 2024. REUTERS/Dado Ruvic/Illustration

Jan 9 (Reuters) - A hospitality staffing firm has filed a novel lawsuit accusing several competitors of misclassifying their workers as independent contractors, who are cheaper than employees, in order to gain a competitive advantage.

In a complaint, opens new tab filed in California state court on Wednesday, The Party Staff claims that app-based "gig" services Qwick, Instawork, Tend, and Nowsta can offer lower prices because they do not have to pay the minimum wage, overtime and payroll taxes or maintain workers' compensation insurance.

And major food service firms Aramark (ARMK.N), opens new tab and Guckenheimer Enterprises, who are also defendants in the lawsuit, profit from and perpetuate the staffing firms' practices by contracting with them to provide workers for catered events, The Party Staff claims. "Plaintiff, which has complied with the law by classifying its workers as employees, has had its business significantly undercut by Defendants' actions and has lost numerous clients as a result, significantly impacting its revenue," the Hollywood-based company said in the complaint. Tend could not immediately be reached for comment. The other defendants did not immediately respond to requests for comment.

The Party Staff is represented by Shannon Liss-Riordan, a Boston-based lawyer who has represented tens of thousands of Uber and Lyft drivers, other gig workers, and franchisees who claim they should have been classified as employees entitled to the minimum wage, overtime pay and other legal protections.

Liss-Riordan said the lawsuit is the first of its kind involving staffing firms. Independent contractor misclassification is an "enormous problem" that hurts not only workers but also state revenues and compliant employers like The Party Staff, she said.

"When companies misclassify workers, they make it very difficult for law-abiding companies to compete, and they drive an economic race to the bottom," Liss-Riordan said in an email. The lawsuit accuses the defendants of knowingly misclassifying workers to gain a competitive advantage in violation of a California law barring unfair competition. The Party Staff is seeking unspecified compensatory damages.

The case is The Party Staff v. Qwick, California Superior Court, San Francisco County, No. CGC-25-621259.

For The Party Staff: Shannon Liss-Riordan of Lichten & Liss-Riordan

For the defendants: Not available

Reporting by Daniel Wiessner in Albany, New York